



Investigation Pursuant to Section 53 of the Broadcasting Act 2009

In Respect of the Programme

“Prime Time Investigates – Mission to Prey”

Broadcast on 23 May 2011

Anna Carragher

29 February 2012



Foreward

I approach this task as someone who has a deep appreciation of the role that broadcasting and investigative journalism plays in a free, fair and well informed society and the role it also plays in holding government and institutions to account. But broadcasting's powerful place in our society also brings heavy responsibilities and it is right and proper that those who hold others to account are themselves held accountable.

This report finds that RTÉ made serious errors in the production and transmission of the programme Mission to Prey and we must not forget that the individual at the centre of this was deeply wounded by untrue and unjustified allegations which the programme made. I hope that RTÉ will emerge from this difficult period with strengthened processes and procedures and that Father Reynolds will be able to feel that not only have his name and reputation been completely vindicated but that his experience will have made journalism in Ireland better and more responsible in the future.

I would like to thank colleagues at the Broadcasting Authority of Ireland for their help and support in carrying out my function as Investigating Officer for the Compliance Committee. I would also like to thank RTÉ for co-operating with the inquiry at all times.

Anna Carragher



Investigating Officer's Views and Recommendation

Having ascertained the full circumstances surrounding the commissioning, production and transmission of the programme *Mission to Prey*, I have formed the view that breaches occurred of certain requirements of Section 39(1) of the Broadcasting Act 2009 ("the Act") and in particular of the requirements that every broadcaster shall ensure that

- (b) *the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of his or her own views, except that should it prove impractical in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other,*

and

- (e) *in programmes broadcast by the broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon"*

In forming the view that breaches have taken place and in making my recommendation to the Compliance Committee of the Broadcasting Authority of Ireland I have taken account of the circumstances of the breaches and, where appropriate, have had regard to the factors outlined in Section 56 of the Act.

In its submission to me, RTÉ accepts that its broadcast of seriously defamatory allegations against Father Reynolds gave rise to a breach of Sections 39 (1)(b) and (e) of the Act and expressed its deep regret that this had happened.

The programme *Mission to Prey* broadcast on May 23rd, 2011 was not fair to Father Kevin Reynolds in that it broadcast serious, damaging and untrue allegations about Father Reynolds, namely that he had abused a teenage girl in Africa in the early 1980's, that she had borne his child and that he had then abandoned her and the child. While these would have been serious allegations against any individual, the fact that Father Reynolds is an ordained priest, currently in ministry, meant that they have had a particularly severe impact upon his reputation.

Father Reynolds denied these allegations as did his former Bishop in Africa. Father Reynolds offered to take a paternity test which would have provided a definitive answer to these allegations but



despite this offer, RTÉ decided to transmit the programme. RTÉ now accepts that there was no truth whatsoever in these allegations.

Furthermore the means employed to make these programmes, including secret filming and a doorstep interview, also unreasonably encroached upon Father Reynolds' privacy.

I have formed the view that there was a significant failure of editorial and managerial controls within the organisation which failed to anticipate, monitor or control the possibility of such a breach occurring and which failed to recognise the grave injustice which could be done to Father Reynolds and the reputational damage which could be done to RTÉ's journalism.

RTÉ has co-operated fully with my enquiry. It did not make any financial gain from the breaches – in fact the RTÉ licence fee payer has already suffered financial detriment by costs incurred by RTÉ following the breaches. It should also be recognised that while the broadcaster repeated the breach on national radio on May 24th, it has subsequently been subject to court proceedings and has made a public apology to Father Reynolds and also paid a substantial sum in damages to Father Reynolds. RTÉ fully accepts it was guilty of a grave offence against Father Reynolds and acknowledges the breaches of the Act.

Recommendation

I recommend that the Compliance Committee finds that RTÉ seriously breached Section 39 (1) (b) and Section 39 (1) (e) of the Act.



EXECUTIVE SUMMARY

My full report sets out in detail the circumstances in which the breaches occurred and the factors which contributed to the errors of judgement which led to the programme, Mission to Prey, being transmitted. Some of these factors were misjudgements by individuals while others are more systemic and I have considered a number of ways in which RTÉ could strengthen its processes and minimise the risk of such an error occurring in the future. I do so in the knowledge that journalism, particularly investigative journalism, is often complex and editorial decisions frequently involve judgements which balance a degree of risk against the public interest. It is in the interests of viewers and listeners that RTÉ can continue to make difficult and challenging programmes which audiences trust and these suggestions are designed to assist that purpose.

The RTÉ Producer Guidelines is a substantial document, some 95 pages long and covering a wide range of editorial, social, ethical and legal issues and I have considered only those sections which are relevant to the programme under consideration. I have noted a number of areas which I believe contributed to the breaches which occurred. I also note that the current Guidelines were drawn up in 2008 and I suggest that the Guidelines are reviewed on an annual basis with any amendments or changes being adequately communicated to staff.

There was an assumption that members of staff working on the programme were familiar with the guidelines but RTÉ had no way of verifying that this was the case. In particular, I noted that guidelines with particular application to investigative programmes were scattered throughout the document.

I suggest that RTÉ puts in place a structured and verifiable training process which ensures that members of staff are familiar with the Editorial guidelines and that RTÉ consider adding a specific section to the Guidelines which draws together guidance for production staff making investigative programmes.

In two significant instances – the surreptitious filming of Father Reynolds on two occasions at his parish church and the doorstep interview carried out with him after the second instance of filming – I accept that the production and editorial staff believed that their actions were compliant with the guidelines on both surreptitious filming and doorstep interviews; however I take the view that the guidelines in this very important area are ambiguous and capable of varying interpretation.



Given the ambiguity and lack of clarity around the guidelines on both surreptitious filming and doorstep interviews, RTÉ should consider reviewing these sections as a matter of urgency to give programme makers clarity as to how they should approach both surreptitious filming and doorstep interviews and that there is clarity as to in what circumstances permission should be sought from either the Director of News or the Director-General.

The nature of investigative journalism, and of this programme specifically, is that it deals with complex and highly sensitive issues. In these circumstances meticulous and well documented research should be at the heart of the production process. I found that the standards of the production team on the ground – Aoife Kavanagh and Mark Lappin - fell short of what should be expected with interviews with significant sources not documented and an almost complete absence of documentary evidence.

In addition, key editorial meetings between the Executive Editor, Brian Pairceir, the Head of Current Affairs, Ken O'Shea and the Director of News, Ed Mulhall, were not noted or minuted.

I have some concerns that the credibility of key sources was not sufficiently interrogated by the production team or by the editorial chain.

In addition, weight was given to repetition of some allegations by individuals who were not personally questioned by the team.

There was a lack of scrutiny and challenge within the department and an over-reliance on subjective issues – for example, the demeanour of individuals, the team's past experience of making investigative programmes - which I believe led them into a 'group think' mentality where they were convinced that the 'facts' verified their assumption and which led them to interpret the offer made by Father Reynolds to take a paternity test as not genuine and a tactic to derail the programme. The decision to proceed with the transmission was taken in the knowledge of the inherent risks and was a unanimous decision, agreed by the production and editorial team; however, the Director of News fully accepts that the final decision to proceed was his responsibility.

Allied to this was the fact that despite the obvious high risks for RTÉ inherent in proceeding with the transmission there is currently no mechanism within RTÉ to refer the decision to go ahead with the transmission of highly sensitive or contentious programmes to the Director-General in his role as Editor-in-Chief. This gap in procedure should be urgently addressed.

I took the view that at all stages of the production of the programme note taking was either nonexistent or grossly inadequate. RTÉ should ensure that in future a record is made of key editorial decisions – e.g. commissioning decisions, editorial conferences. Reporters and Producers should be tasked to ensure that they make contemporaneous notes throughout research and production. This



should not impose a bureaucratic burden but be part of the accepted culture of accountable programme making.

While programme making is in its nature a collegiate business I suggest that RTÉ embeds the spirit of review and challenge as a key part of the culture of programme makers particularly at Executive Producer and Editor level.

In addition, RTÉ should examine a way to ensure that potentially high risk programmes are identified as far as possible in advance and regularly monitored and scrutinised at a senior level.

Given the high risks inherent in the programme it is very surprising that the Legal Affairs Department became involved very late in the process, less than two weeks before transmission. Earlier input would, at the very least, have given the team more time for reflection and consideration.

It was also highly undesirable that the reporter was the sole point of contact between Father Reynolds' solicitors and RTÉ. This appears to have arisen as she was the individual who Father Reynolds identified as the Prime Time Investigates contact and it was her to whom his solicitors directed their correspondence. She was focussing on programme related matters rather than legal issues. In addition a piece of correspondence was not forwarded to the Legal Department by the production team on the day of transmission; while it is impossible to say definitively that if it had been there might have been a different outcome, it may be that this would have been the case.

It is highly desirable that Legal Affairs have earlier input into programmes which are likely to be high risk and/or contentious – this would form part of a high risk programme management strategy.

All communication from solicitors in connection with programme content should be immediately forwarded to Legal Affairs and their advice sought.

Legal firms in contact with programme departments should always be advised to copy any correspondence to the Legal Affairs Department.

While none of us can avert all risks, I suggest that these views are communicated to RTÉ to minimise the risks of a similar event occurring in the future.

Having ascertained the full circumstances surrounding the commissioning, production and transmission of the programme Mission to Prey, I have formed the view that breaches occurred of the requirements of Section 39(1) (b) and (e) of the Act and recommend to the Compliance Committee that it so finds.



Investigation Report

Investigation into potential breach or breaches under Section 53(1) of the Broadcasting Act 2009.

This investigation was established by the Compliance Committee of the Broadcasting Authority of Ireland under Section 53(1) of the Broadcasting Act 2009 ("the Act"). The Committee considered that that there were circumstances suggesting that it was appropriate to investigate and report on an apparent breach or breaches (breach being defined by Section 52 of the Act) by Raidió Teilifís Éireann ("RTÉ") of certain requirements of Section 39(1) of the Act and in particular of the requirements that every broadcaster shall ensure that

(b) the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of his or her own views, except that should it prove impractical in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other,

and/or that

(e) in programmes broadcast by the broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon"

in respect of the programme "Prime Time Investigates – Mission to Prey" broadcast on 23rd May 2011.

The Terms of Appointment are as follows:

1. To act as Investigating Officer in accordance with your appointment pursuant to Section 53 of the Broadcasting Act 2009 ("the Act") and to carry out an investigation in accordance with such Terms and with the Act;
2. To form a view and report on whether in fact there occurred a breach and/or breaches of Section 39 (1) (b) and/or Section 39 (1) (e) of the Act in respect of the programme "Prime Time Investigates – Mission to Prey" broadcast by RTÉ on 23rd May 2011 ("the programme");
3. If a view is formed that there occurred a breach and/or breaches of Section 39 (1) (b) and/or Section 39(1) (e) of the Act, to ascertain the full circumstances of such breach



or breaches. In order to ascertain the full circumstances, the investigation will in particular:

- Be limited to the segments of the programme featuring Fr. Kevin Reynolds but include an examination of these segments in the context of the programme as a whole taking account of the programme treatment, tone and style (use of music, editing, shots etc).
- Consider only matters relating to the programme up until the point of broadcast and will not examine any issues arising subsequently, unless these are materially relevant to the investigation.
- In terms of the facts relating to the production, address the following:-
 - *General programme making procedures and RTÉ's approach to compliance.*
This will include a review of the established RTÉ programme-making guidelines, the adequacy of the guidelines, an assessment of the understanding by editorial staff of these guidelines both generally and in respect of staff involved with the programme under investigation, an assessment of whether the production of the programme was compliant with these guidelines and including but not limited to, such matters as the use of surreptitious recordings and 'door-stepping'.
 - *The development of the programme from concept to broadcast.*
This will include an examination of the overall production of the programme with a view to establishing the production timeframes and each step in the production process up to the point of broadcast, including the verification and corroboration of the factual content of the programme.
 - *Responsibility for sign-off of the programme prior to broadcast.*
This will include a review of the structures and processes in place for editorial sign-off and compliance with these structures and processes in respect of the programme.
 - *Legal advice.*
This will include an examination of the role of legal advice in the making of programmes in RTÉ, the processes and procedures in place, compliance by the programme makers with these processes and procedures from programme concept to the point of broadcast and the handling by the programme makers and by RTÉ of any such advice in the context of the decision-making in respect of this programme.
 - *Scheduling and related matters.*
This will examine the factors informing the decision to transmit the programme. Issues to be examined include the role of scheduling, scheduling pressures (if any), staff resources and commercial considerations (where relevant). The availability of back-up programmes, the standard practice regarding scheduling of Prime Time Investigates, the programme budget and the budget vis-a-vis other Prime Time Investigates programmes and other programmes will also be examined.



- *Other Relevant Matters*
Examination of any other matters considered relevant by the Investigating Officer where such matters are relevant to the scope of the investigation as set out above and provided for by the Broadcasting Act 2009 and the Terms of Appointment.
- 4. To co-operate with, and to have full and proper regard to, the input and expertise of any advisor appointed by the Committee to assist the investigation.
- 5. To form a view and report on whether there has been a failure to co-operate with the investigation and, if so, provide details of any failure by the broadcaster to:
 - (i) provide such information and/or records as are in the broadcaster's possession or control relevant to the investigation
 - and/or
 - (ii) to attend before the Investigating Officer for the purpose of the investigation;
- 6. If a view is formed that there occurred a breach and/or breaches and/or there was a failure to co-operate with the investigation, in considering and compiling a report, where appropriate, the relevant matters as set out in Section 56 of the Act should be referred to;
- 7. To seek such documents and/or information and to receive and hear such evidence and/or submissions as may be relevant and/or necessary to carry out the functions of the Investigating Officer in accordance with these Terms and the Act;
- 8. To afford fair procedures to all relevant parties and to ensure such procedures respect the right to natural justice and are compliant with the requirements of the Act;
- 9. To report pursuant to Section 54 of the Act to the Compliance Committee within a period of two months from the date of appointment.



Process

The following is an outline of the key stages in the process.

I was notified of my appointment to the role of Investigating Officer on December 8th 2011. On that date, I wrote to RTÉ to notify it of my appointment and request that it respond to the matters under investigation, provide a submission in accordance with the Act and supply me with relevant material to support my investigation. In my letter, I also referred to the opportunity for an employee of RTÉ or a person commissioned by RTÉ (to make the programme) to apply to the (Compliance) Committee to comment on the matters under investigation in accordance with the Act. I also indicated that I proposed to hear evidence by way of interviews.

On December 19th, I wrote to the relevant individuals associated with the programme and invited them to submit any comments they may have by January 5th 2012. No responses were received from these individuals.

RTÉ submitted the requested material to me on January 6th. This included:

1. A Letter of Response including a programme timeline.
2. RTÉ Broadcast apology, 6/7 October 2011
3. Source material for the section of the Mission to Prey programme relating to the Father Reynolds segment.
4. RTÉ Programme Standards and Guidelines
5. Report of Professor Horgan, December 2011
6. Details of previous Prime Time Investigates programmes to May 2011
7. Guidelines for sample Prime Time Investigates filming (Leas Cross)
8. Details of Prime Time Investigates programmes resulting in Reform
9. Programme production documentation for the section of the Mission to Prey programme relating to the father Reynolds segment.
10. General Advice note on Defamation Act 2009
11. Court Statement, 2011
12. Correction Order, 17 November 2011



13. Letter from Head of Commercial operations, RTÉ Television
14. Letter from Head of Scheduling, RTÉ Television
15. Internal Reports and Investigation results.

In order to assist in my investigation, I sought meetings with the key personnel identified by RTÉ as being relevant to the investigation. The purpose of the meetings was to clarify, and elaborate on, certain issues which had arisen during the course of my review. Meetings were held on January 19th with Aoife Kavanagh, Reporter on Prime Time Investigates “Mission to Prey” and Ed Mulhall, Managing Director News and Current Affairs. Further meetings were held with Brian Pairceir, Executive Producer of Prime Time Investigates “Mission to Prey”, and Ken O’Shea, Editor of Current Affairs on January 27th. Recordings of these meetings were provided to RTÉ. In addition, written responses to a number of separate queries were provided to me by Mark Lappin, Producer of Prime Time Investigates “Mission to Prey”, on February 6th.

On a number of occasions between January 16th and February 9th, I sought clarification and additional material from RTÉ on the production process in order to assist in the investigation process. Requested materials included a transcript of the interview carried out with Fr. Reynolds in Ahascragh in May 2011, a broadcast quality DVD of the programme as transmitted, a DVD of the programme promotions and a DVD of filming of Father Reynolds carried out in Ahascragh in April 2011. Comprehensive responses to these requests, including clarification from Eamonn Kennedy, Director of Legal Affairs, on legal correspondence received and generated by RTÉ, were provided by the broadcaster in a timely manner.

RTÉ co-operated with the investigation and provided both available material and further material as requested.

However, it is a matter of some concern that while the production timeline indicated that a Prime Time Investigates on the subject of abuse in Africa by missionary priests was under consideration and discussion from October 2010 and a research trip by the reporter took place in January 2011 around which time the allegation against Father Reynolds emerged there is no written documentation about any aspect of the programme, including the allegation under investigation, until February 2011 apart from a single handwritten sheet containing names and dates dating from the research trip in January 2011.

I was also provided with documentation relating to further investigation carried out in Kenya between May and September 2011. However, as my remit was to consider matters relating to the programme up to and including the broadcast I have not considered this documentation.



INVESTIGATION REPORT

In order to form a view and report on whether in fact there occurred a breach and/or breaches of Section 39 (1) (b) and/or Section 39 (1) (e) of the Act in respect of the programme "Prime Time Investigates – Mission to Prey" broadcast by RTÉ on 23rd May 2011 ("the programme") and to ascertain the full circumstances of any such breach or breaches I considered the following factors in accordance with my terms of appointment.

SECTION 1

Consider the segments of programme featuring Fr. Kevin Reynolds but include an examination of these segments in the context of the programme as a whole taking account of the programme treatment, tone and style (use of music, editing, shots etc).

I considered only the segments of the programme relating to Father Reynolds but examined these segments in the context of the programme as a whole, taking into account the tone and style – e.g. music, editing, and camera shots. The programme covered seven allegations of sexual abuse by missionaries in Africa, including the allegation against Father Reynolds, and I have considered only the production aspects of the six other cases. I therefore have no views on the veracity or otherwise of these allegations. In all seven cases a broadly similar production approach was adopted – the reporter detailed the allegation/s, a witness or witnesses were interviewed by the reporter, there was a dramatic reconstruction of the allegations and, in four cases, a doorstep interview carried out by the reporter. A number of experts and analysts were interviewed and extracts from these interviews used throughout the programme. I have a number of concerns and comments:

1. Firstly, I note that the Father Reynolds segment, though very short (4'40") was heavily trailed at the end of the first half and led the second half of the programme, which, in production terms, gave it considerable prominence.
2. Stylistically the production of this section was very similar to the other six cases featured thus giving viewers the impression that a similar level of evidence existed throughout; while there were some small differences – e.g. witnesses in the other cases were captioned as 'victim' or 'abuse survivor' while Veneranda (the woman who said that Father Reynolds was her daughter's father) was not, though I doubt whether the average viewer would have noticed or drawn the conclusion that this indicated any distinction between this segment and others.



3. I have some concerns about the use of reconstruction in this specific segment; the RTÉ programme guidelines give general advice about the use of reconstruction; they recognise the legitimacy of the technique and the value which reconstructions can add but they caution that *“care must be taken not to over dramatise through camera work, sounds or music what actually happened”* and they add that the producer should *“ensure that the evidence on which reconstructions are based is reliable ... and there should not be over reliance on a single source”*.¹ In the case of this segment of the programme there was a single allegation of assault and there is no evidence that the production team took this into account when deciding to include the reconstruction.

¹ RTÉ Producer Guidelines, Use of Reconstructions in news, Current Affairs and Factual Programming



SECTION 2

Consider only matters relating to the programme up until the point of broadcast and will not examine any issues arising subsequently, unless these are materially relevant to the investigation.

As stated earlier in this report I received material from RTÉ which it had acquired during further investigation in Kenya in September 2011. I did not consider this material to my investigation and did not therefore consider it. I did however consider a number of reports which RTÉ personnel wrote in the aftermath of the broadcast and the report on Editorial Processes and Risk Management in RTÉ Television Current Affairs which RTÉ commissioned from Professor John Horgan in December 2011.



SECTION 3

General programme making procedures and RTÉ's approach to compliance.

This will include a review of the established RTÉ programme-making guidelines, the adequacy of the guidelines, an assessment of the understanding by editorial staff of these guidelines both generally and in respect of staff involved with the programme under investigation, an assessment of whether the production of the programme was compliant with these guidelines and including but not limited to, such matters as the use of surreptitious recordings and 'door-stepping'.

It will be appreciated that the RTÉ Producer Guidelines are a substantial document, some 95 pages long and covering a wide range of editorial, social, ethical and legal issues and I have therefore considered only guidelines which have a particular relevance to the programme under consideration.

The extent to which staff involved with the programme understood the guidelines

There is no evidence in the documentation supplied that, especially in the Jan/Feb – early May stages of the production, the production team referred to the RTÉ Editorial Programme Standards and Guidelines. In particular, given that this was the reporter's first Prime Time Investigates, no training was provided about the particular issues surrounding the making of investigative journalism; there appeared to be an assumption that an experienced reporter would be familiar with the guidelines but this is not supported by any objective evidence that staff have read and understood the guidelines.

The Guidelines themselves do not have a specific section relating to investigative journalism so that members of staff have to be familiar with several sections, many of which have an application outside Current Affairs.

Surreptitious Filming

I have particular concerns around the production team's interpretation of the guidelines on surreptitious filming and, by extension, privacy. The Guidelines are quite clear that surreptitious filming can breach an individual's right to privacy and state that ***"It is mandatory to obtain the permission of the Director General before commencing recording or filming. If permission is granted it will be in two phases. Initially permission to record will be given. Subsequently permission to broadcast will be considered"***. (The bold type and underlining are as in the RTÉ Guidelines.)

There were two instances during the making of this section of the programme where what might be considered surreptitious filming took place. In April a cameraman went to Ahascragh to obtain footage of Father Reynolds which the team intended to take to Kenya to show to Veneranda for the



purpose of identifying Father Reynolds as the man whom she claimed had assaulted her. This filming was carried out from inside a van parked opposite the Church in Ahascragh and took place before and after mass. A number of parishioners were filmed, as was Father Reynolds. A few seconds of this footage – only of Father Reynolds - was used in the final transmitted programme. Secondly, on May 7th 2011 a cameraman filmed inside the church at Ahascragh during a First Communion Service which Father Reynolds was conducting. Again a few seconds footage of Father Reynolds at the altar were used in the final version; no shots of parishioners or children were used. It was immediately after this that the doorstep interview in the Church grounds took place.

No permission was sought for either of these recordings or the subsequent transmission. There was no documentation relating to any discussion of the probity of carrying out these recordings in any of the documentation supplied. When questioned about the first case – the filming in April -the Executive Producer and the Head of Current Affairs said that they did not regard this as surreptitious filming – *“In the strictest of senses allowed by the RTÉ guidelines, no, in terms of like secret filming. I know, know there’s a, what do we call it, a noturol languoge, understanding af that ond people would soy, well is thot not secret filming but not os understoad by the guidelines.”*² *“I think yau cauld, there ore a number of different terms yau cauld oply to it. Is it surreptitious filming, surreptitious is perhops a definition thot might fit whot was hopenning. Was I camfortable thot we were doing it thot woy? Yes.”*³

Equally, the team did not regard the filming at the First Communion as qualifying as surreptitious filming under the Guidelines – one member remarked that parents were also filming inside the Church.

Despite these views I believe most reasonable people would regard being filmed from inside a van without their knowledge as surreptitious and would be uneasy if a person they presumed was a friend or relative filming children at a First Communion service for a family turned out to be a professional filming for a quite different purpose.

Doorstepping

The Guidelines recognise doorstepping as a legitimate form of broadcast journalism; they say

“It should be used as a last resort when all other avenues have been explored. The issues of privacy and fairness still applyThey should only happen when a request for a regular interview has been refused or it is likely that the person will take measures to avoid being interviewed. There must not be an assumption of any wrong doing associated with the intended interviewee simply on the basis that the reporter decides that such an interview should take place”

² Interview Brian Pairceir

³ Interview, Ken O’Shea



Following the filming in the church in Ahascragh on May 7th, Ms Kavanagh carried out a doorstep interview with Father Reynolds in the church grounds. There is no contemporaneous record of any discussion or conversation taking place either within the production team or with either the Head of Current Affairs or the Director of News as to whether or not this was the correct approach to adopt to Fr Reynolds so the following assessment is based on reviews carried out after the programme and during interviews with Prime Time Investigates personnel. The Executive Producer, Brian Parceir wrote *"It was agreed between the team, Executive Producer and Editor that a doorstep interview was appropriate. In circumstances such as this it would be not uncommon for the person facing the allegations to 'disappear' if they were forewarned by us of our approach. This method is provided for in the programme making guidelines."*⁴

In interview the Head of Current Affairs said that *"We discussed this extensively. It's not something that we do lightly. We take our responsibilities in that regard very seriously and also it obviously, you know it can, it changes the dynamic of the story that you are working on and also can have very, you know, it's a big step to do it, ok. Our view at that time was, given the nature of the allegations, given the behaviour of both this Order and other religious orders in the past when dealing with situations like this, that it was like, it was very important to us that we got the opportunity to put these allegations directly to Fr. Reynolds and we were strongly of the belief that if we went and asked for an interview in advance that we wouldn't have that opportunity. So that's what informed our decision."*⁵

I believe that the team acted in good faith in deciding on a doorstep interview but nonetheless, the fact remains that they did not afford Father Reynolds the opportunity to agree or not to agree to an interview and indeed it is arguable that had he refused or 'disappeared' the viewer might have drawn some inference from that.

Ms Kavanagh's conduct of the interview also raises some questions about compliance with the guidelines in so far as she made statements which assumed guilt – for example, her opening remark after giving her name and saying that she was from Prime Time was:

AK- *'30 years ago father .. you had a daughter who was born in Kenya.*

FR – *No I did not*

AK – *She's never .. you've never acknowledged her existence, you've never done anything to support her*⁶

⁴ Post programme review, Brian Parceir

⁵ Interview, Ken O'Shea

⁶ Transcript of doorstep interview, Aoife Kavanagh and Father Reynolds



I suggest that RTÉ identifies a way to assure itself that members of staff are familiar with the Editorial Guidelines and that there is a specific section in the Guidelines which draws together guidance for production staff making investigative programmes.

I note that the current guidelines were drawn up in 2008 and suggest that the Guidelines are reviewed on an annual basis with any amendments or changes being adequately communicated to staff.

I also urge RTÉ to review the guidelines on both surreptitious filming and doorstep interviews as a matter of urgency so that journalists and Editors are clear about what constitutes surreptitious filming and that there is clarity as to in what circumstances permission should be sought from either the Director of News or the Director General to carry out surreptitious filming and that journalists and Editors have greater clarity about what circumstances justify carrying out a doorstep interview and how such interviews should be conducted.

SECTION 4

The Development of the programme from concept to broadcast to include the production time frame and each step in the production process up to the point of broadcast including the verification and corroboration of the factual content of the programme

RTÉ submits that Prime Time Investigates is its flagship investigative documentary strand, comprising eight editions a year, usually in two series of four editions. It has a considerable reputation for investigative journalism and has tackled many difficult subjects and won praise for many of its programmes. It is among RTÉ's most resource intensive factual programmes and central to its news and current affairs portfolio. Its audience places considerable faith in its veracity and it is against this background that the programme transmitted on May 23rd, 2011, Mission to Prey, must be considered.

Discussions took place in October 2010 about possible subjects for the Spring 2011 series of Prime Time Investigates. As would be expected a number of subjects were considered, among them an idea about Irish missionaries in Africa which was brought to the programme editor, Brian Pairceir, by Aoife Kavanagh, who was an experienced RTÉ journalist although she had not previously reported for Prime Time Investigates. Brian Pairceir discussed the idea with the Head of Current Affairs, Ken O'Shea who in turn discussed it with the Director of News, Ed Mulhall, and the programme was approved. As referred to earlier there is no documentation of any of these meetings so it is impossible to accurately ascertain exactly what was approved or by whom or when. However, RTÉ personnel interviewed confirmed that the issue was given serious consideration and they were conscious of the potential sensitivities.

In January 2011 Ms Kavanagh undertook a research trip to Africa. During this trip she met an individual who told her about an allegation that Father Reynolds, in the early 1980s while a priest in a village called Eregi, had had non consensual sexual relations with a young girl called Veneranda who had subsequently given birth to his daughter whom she named Sheila. However, details about the alleged event appeared confused – there was a lack of clarity about Veneranda's age and the extent to which either her husband or her daughter Sheila's husband knew anything about the claim.

On her return to Dublin Ms Kavanagh put a series of questions to the source by email relating to how the source had become aware of the story. The individual alleged that a number of other people were aware of the allegation and that the individual had personally carried out an investigation into the allegation some years before and had met and interviewed the mother, Veneranda, and her daughter Sheila with the motivation of redressing an injustice. Ms Kavanagh replied saying *"Thank you for the extro info re Reynolds. I know you told me all this in the office the other day but it's*



always good to check and recheck. We may have to take a leap of faith on this and simply approach him.”⁷

I have considerable concerns that apart from these emails which all date from February 2011 there is no documentation of the conversations which took place during the research trip in January 2011.

In addition, given the serious nature of the allegation I would have expected Ms Kavanagh to have been a great deal more rigorous in her exploration of her source’s credibility. Given the seriousness of the allegation which the source was making I would also have expected a rigorous examination of the motivation and trustworthiness of the individual.

There is no documentary evidence that Ms Kavanagh took steps to establish these; when questioned she said “I’ve got some very good friends who are actually all, some of them priests, some of them work with missionary orders, and others are NGOs so I was actually able to ask quite a few people about .. and people who would know ... quite well, because it’s a small community and particularly if they’re Irish it’s an even smaller community. So the general perception of ... was that ...[he was] a .. decent .. , a good man...”⁸

I also have some unease about the tone of the emails between Ms Kavanagh and the source; the tone brooks no other view than that of Fr Reynolds culpability and it makes some sweeping assumptions about the behaviour of various orders with which Ms Kavanagh seems to concur which leads me to have some concerns about the objectivity with which she approached the programme; in an email dated March 2 Ms Kavanagh writes – “it drives me crazy to think of him preaching, literally, in Galway while all of this mess is tucked away in Kenya”.⁹ This may in turn have influenced her when she came to make judgements about the evidence she was assembling. Somewhat later the source also appears keen to influence the production – for example, suggesting scripts and suggesting an appearance on the programme as an expert interviewee.

⁷ Email from AK Feb2, 2011

⁸ Interview, Aoife Kavanagh,

⁹ Email from AK , Mar 3, 2011



Furthermore, Ms Kavanagh does not appear to have met or questioned the colleagues who, according to the primary source were all aware of the allegation and therefore it appears that second hand repetition of gossip was treated as corroboration. In these circumstances, and given the seriousness of the allegation, good journalistic practice would be that a more detailed and objective examination of the claim and its provenance took place. I am concerned that neither Ms Kavanagh's Producer nor her Editor interrogated this aspect more closely.

When Ms Kavanagh returned to Ireland the production team contracted a freelance Kenyan journalist, Mike Njenga, to carry out further investigation into the allegations. An email to Mike Njenga dated Feb 11 asks him to travel to Eregi to try to substantiate a claim which, it appears from later correspondence, came from another source, that a relative of Veneranda had said that Fr Reynolds had, through an intermediary, been responsible for paying school fees for Veneranda's daughter. There is no record of any conversation or correspondence between Ms Kavanagh and this second source and it is unclear whether or not the primary source was an intermediary.

Mike Njenga travelled to Eregi to meet Veneranda and Sheila and he also interviewed the individual who had made the claim about the school fees. However, Mr Njenga made no record, either contemporaneous written notes or electronically, of these conversations. He did send a brief email to Ms Kavanagh summarising a conversation which confirmed the teacher's recollection that following an approach to Fr Reynolds by an intermediary, Sheila's fees had been paid by the local Bishop, Bishop Sulumeti.¹⁰

At some point in February – there is no date in the documentation which is contained in an account compiled after the transmission of the programme – Ms Kavanagh contacted the teacher by phone; her report states that *'communication was difficult but – confirmed – briefly – what – had told me'*.¹¹ During interview Ms Kavanagh said *"we made several attempts to talk to each other. And we would have very brief, and I mean they were brief conversations. And so what I ended up doing was calling her and saying you know, texting her saying, kind of, this is what I'm talking about and she said ok to call. So I call and I would literally get, I got the sort of main facts, you know, how did you know, you know Veneranda? You know Sheila? You were the headmistress? Yes. You remember dealing with the Bishop on this? Yes. He went to Fr. Reynolds? Yes. It was a bit more than yes but it was very short, I'd say a minute. Then I tried again and it was the same kind of thing"*¹²

¹⁰ Email Mike Njenga to Aoife Kavanagh, Feb 21 2011, P46

¹¹ Aoife Kavanagh, Background document, P646

¹² Aoife Kavanagh, transcript of interview

I was unable to find any evidence in the documentation that either the Kenyan journalist or the production team made any real effort to track down any documentary evidence of this claim about school fees; it may well have been the case that the child's fees had been paid but no attempt seems to have been made to find receipts. When questioned both the reporter and the producer said that they had tried to seek documentary proof. *"through the Headmistress, we tried, you know we asked were there any records of the payment ever been made and she said no."*¹³ *"We also wanted to ascertain the possibility of identifying a proper trail to prove this payment but it became apparent that this would not be possible because, I understood, the person had retired. Contact with this person continued but was rather sporadic and in the end, a decision was made not to proceed with our request to meet."*¹⁴

Again, given the seriousness of the allegation and the lack of corroborative evidence I am somewhat surprised that more diligent efforts were not made to obtain any documentation or an on the record statement from the teacher. This was critically important in this case as it relied on a single witness in a situation which it is notoriously hard to prove as it by necessity relies on one person's word against another's. Again, I am concerned that the Editor did not interrogate this more closely.

In April the production team sent a camera person to Galway to acquire footage of Father Reynolds – I referred to the method by which this footage was acquired in the previous section. However, I am also concerned as to whether footage taken some thirty years after the alleged incident would be adequate for the purposes of identification. I asked about efforts to obtain a photo dating from the time of the alleged incident and while the team say that they had tried the only evidence that they had done so is an email from Ms Kavanagh to the source dated April 29, i.e. after the filming with Veneranda.¹⁵ The team went to Kenya in mid April and went to Nairobi to meet Veneranda and her daughter, Sheila; they showed this footage to Veneranda; she claimed that it was the man who she alleged had raped her and fathered her child. Ms Kavanagh then recorded interviews with both her and with her daughter, Sheila. One appreciates the difficulty of interviewing a woman in this situation and one is aware that in any case where sexual assault is alleged great sensitivity is required and in this case there was a further difficulty as an interpreter was needed as the interviewees spoke Kiswahili. Nonetheless, the interview assumed the truth of the allegation – for example, the first question which Aoife Kavanagh asked Veneranda about her pregnancy (through

¹³ ibid

¹⁴ Letter from Mark Lappin

¹⁵ Email from AK, P91



the translator) was *"She wants to know how did it happen that you were pregnant with Father Reynold's child?"*¹⁶

I have considerable concerns that despite the sensitivities the interview did not probe Veneranda's story – for example, how certain was she that the footage she was shown was the man she said had attacked her, whether or not there were other men (including other priests) who might also have been responsible for her pregnancy, the extent to which any sex was consensual – at one point Veneranda spoke about payment¹⁷, at another she said *"both of us are guilty for giving into temptation"*¹⁸. The interview did not probe some of the discrepancies about dates, about the question of payment for school fees which Veneranda said had not happened¹⁹, nor did it probe why neither woman's husband appeared not to know about something which was supposedly well known in the neighbourhood. I asked Ms Kavanagh about these omissions and she said that she had probed these issues before the recording. She said that she had made notes but could not find them – *"I had notes and do you think I can find them, no I can't. And I know I had them up to TX and I know I can see the notebook they are in and I can't find it. There's lots of stuff in it and I just can't find them. But all of that, all of those questions would have been asked. I mean, you know, you remember because it's such a horrible question to have to ask"*.²⁰

On May 7th Ms Kavanagh carried out a doorstep interview with Father Reynolds in the grounds of his parish church in Ahascragh in which she put the allegation to him; he denied the allegation. I have covered this interview in the proceeding section.

On May 11/12 Fr Reynold's solicitors, Fair and Murtagh, contacted Prime Time Investigates denying the allegations; Prime Time Investigates replied to this letter by email on May 18th with a letter asking a series of further questions about Fr Reynolds time in Africa; this letter was sent from Aoife Kavanagh and was written with advice from RTÉ's legal department and with input from both the Executive Producer and the Editor of Current Affairs.

On May 12 Prime Time Investigates contacted Fr Reynold's order, the Mill Hill Fathers, and put the allegation to them; on May 13th Prime Time Investigates received a statement saying *"Fr Kevin*

¹⁶ Transcript of interview with Veneranda, P78

¹⁷ Ibid, P78

¹⁸ Ibid P84

¹⁹ Ibid P87

²⁰ Transcript of interview with Aoife Kavanagh



Reynolds is a priest in good standing with the Church and our missionary society. Any allegation of abuse made against any of our missionaries will be dealt with according to our Society's protocol on Dealing with Abuse of Children and Vulnerable Adults, which includes full co-operation with civil authorities. Allegations of misconduct will be dealt with according to normal Church disciplinary procedures."

On May 18 RTÉ received a further statement from the Mill Hill Fathers which said "*He (Fr Reynolds) has agreed to co-operate fully with the investigation and is willing to undergo a paternity test*"

Fr Reynolds' solicitors replied to RTÉ's letter of May 18th again denying the allegations and asking for details of the evidence against him – this letter is undated but appears to have been sent by reply on either May 19 or 20; there does not appear to have been any reply to this letter from RTÉ. It also enclosed a copy of a letter of reference for Father Reynolds from Bishop Sulumeti dated October 14th, 2003

Ms Kavanagh asked Bishop Sulumeti's office for a response on the allegation about payment of school fees; this was denied and a character reference for Father Reynolds provided.



SECTION 5

Responsibility for sign-off of the programme prior to broadcast.

To include a review of the structures and processes in place for the editorial sign off and compliance with these structures and process in respect of the programme.

There is a well established though unwritten process for sign- off of Prime Time Investigates programmes. As already documented the Executive Producer will discuss ideas with individual reporters and producers and will then bring the ideas which he wishes to develop further to the Editor of Current Affairs and he in turn will bring them to the Director of News. Throughout the production the Executive Producer will keep the Editor of Current Affairs informed of progress, including any potentially difficult or controversial issues as they arise. This process was followed in the case of this programme with all the senior news management agreeing that they were kept informed about progress on the Father Reynolds case. However, as has been noted before none of these meetings were documented.

Following the doorstep interview a letter from Fr Reynolds' solicitors was received on May 11th which categorically denied the allegation and demanded a retraction and a withdrawal of the allegation with the statement that Fr Reynolds would issue proceedings if these were not forthcoming. The reply to this letter came from Ms Kavanagh and was sent on May 18th. It was written with the assistance and agreement of RTÉ's Legal Department and the Executive Producer and Head of Current Affairs; it posed a further series of questions to Fr Reynolds about his time in Eregi. On May 18th a statement also arrived from the Mill Hill Fathers which stated that Fr Reynolds was willing to undergo a paternity test. A further letter was received from Fair and Murtagh on May 19, sent to Ms Kavanagh. It re-iterated his denial of the allegation and also the other points which had been put to him in Ms Kavanagh's letter of the 18th. It asked for specific details of the allegation and it attached a reference which Bishop Sulumeti had provided when Fr Reynolds had left Kenya in 2004. This letter was forwarded to the Legal Department; it was also seen by the Director of News and the Executive Producer. There was no reply sent to Fair and Murtagh.

The final decision to transmit the programme was taken at a meeting on Friday May 20th. Present at this meeting were representatives from the Legal Department, the production team, the Executive Producer, the Editor of Current Affairs and the Director of News. Mr Mulhall is very clear that, as Director of News, the final say on whether or not to transmit the Fr Reynolds section of the programme was his call and he fully accepts the responsibility of so doing. However, it should be noted that the decision was unanimous with all the production and editorial team in agreement.



The question therefore has to be asked why the team and the senior editorial personnel decided to proceed with the transmission in the light of the paternity test offer. I believe there are a number of factors which came into play.

- I will return to the legal advice in the next section but, while the team were well aware of the risks involved, they believed that they had the defence of fair and reasonable publication.
- They believed that the offer of the paternity test was not completely genuine and felt that had they accepted it they would have had no way of enforcing it and that it would not happen and therefore someone whom they believed to be responsible for a very serious action would have not been exposed.
- At the heart of both of these was the firm belief among the production team that they were right about the paternity allegation. They believed that they had checked and verified the facts, despite the lack of any documentary evidence and the failure to obtain full, on the record documentation of what they believed was corroborative evidence from other individuals. They were convinced that Veneranda was a very credible witness. The team also made highly subjective assumptions which served to reinforce their certainty – for example, some members of the team were convinced that there was a striking likeness between Fr Reynolds and Sheila Mudi; Fr Reynolds' demeanour on the doorstep interview was deemed to endorse the team's view of his guilt and to be consistent with that of others accused of abuse by Prime Time Investigates in the past; the reference supplied by Bishop Sulumeti which said "Fr Kevin has never been involved in any kind of abuse, controversy whatsoever ... His relationships with young people and those of the opposite sex are proper, respectful and above suspicion" was summarised as "most peculiar .. it says Fr Reynolds is not a sexual predator"²¹

I believe that the team had got into a position of 'group think' where all evidence was interpreted as pointing only in one direction. There was a distinct lack of challenge and I note that both Professor Horgan's report and a number of internal reports have noted this lack of challenge and review throughout the process. I do not think this necessitates the creation of a post specifically to challenge programme makers – **the spirit of review and challenge needs to be part of the culture of programme makers particularly at Executive Producer and Editor level.**

While I am very aware that the nature of journalism is fast moving and dynamic and many highly sensitive issues arise on the day with little or no warning I am struck by the fact that RTÉ does not

²¹ Note from Brian Pairceir, P 650/651



appear to have a process for identifying and monitoring programmes, particularly long form programmes, which carry a high degree of risk and that there appears to be no mechanism for alerting the Director General, who is the Editor-in-Chief of the organisation - to such programmes. **I would therefore strongly suggest that RTÉ examines a way to ensure that potentially high risk programmes are identified as far as possible in advance and regularly monitored and scrutinised at a senior level.**



SECTION 6

Legal Advice

This will include an examination of the role of legal advice in the making of programmes in RTÉ, the processes and procedures in place, compliance by the programme makers with these processes and procedures from programme concept to the point of broadcast and the handling by the programme makers and by RTÉ of any such advice in the context of the decision-making in respect of this programme.

There is a Legal Department within RTÉ – Legal Affairs/Solicitors Office – whose remit is to advise programme makers on content. In circumstances where Legal Affairs advise that a programme carries a degree of risk the Editor and Director of News or the Director General may still proceed with the broadcast. Such decisions are not taken lightly and when they are taken the programme makers will proceed with a clear understanding of the risks and any mitigating factors such as public interest.

In common with other broadcasters the role is advisory and RTÉ submits that the legal advice provided is subject to solicitor/client privilege at all times and therefore is never disclosed.

I am also conscious that both Professor Horgan's report and internal investigations have considered the wider aspects of provision of legal advice to programme makers and I broadly agree with their conclusions and recommendations.

It is possible to examine the broad outline of the process followed in the case of Mission To Prey during which the programme had to consider a number of legal issues concerning the risk of defamation and also dealt with Fr Reynold's solicitors, Fair and Murtagh.

The first contact between the programme makers and Legal Affairs was a general briefing conversation between the Executive Producer, Brian Pairceir and a member of the Legal Affairs team in March 2011. There is no evidence that there was a specific or detailed briefing on the Fr Reynolds case at this stage.

The next contact was an email from Brian Pairceir on May 11th sending a draft script to Legal Affairs.



On May 11th Aoife Kavanagh received a letter from Fair and Murtagh which denied the allegation and asked for a retraction of the allegation and said that any broadcast would result in the institution of defamation proceedings against RTÉ. Over the next few days a letter of reply went through several stages of drafting by the production team before it was sent to Legal Affairs for final approval. On May 16th Brian Pairceir sent a briefing note to Legal Affairs about the Fr Reynolds case.

On May 17th Legal Affairs attended a screening of the programme.

On May 18th a reply to Fair and Murtagh's letter of the 11th was sent to them by email from Ms Kavanagh. It posed a series of questions to Fr Reynolds about his time in Kenya. It had been approved by Legal Affairs.

On May 18th Ms Kavanagh also received a statement from the Mill Hill Fathers about Fr. Reynolds which included the statement "He has agreed to co-operate fully with the investigation and is willing to undergo a paternity test"

On May 19th Ms Kavanagh received by email a reply to the letter of the 18th from Fair and Murtagh. It reiterated the earlier denials and also denied the further allegations listed in the May 18th letter. It also repeated Fr Reynolds' intention to institute defamation proceedings if the programme went ahead. It is clear that Ed Mulhall and Brian Pairceir had knowledge of this letter²² but they dismissed it as "continuing reiteration of denials"²³. This letter was also seen by Legal Affairs and there does not appear to have been any reply to it. At the very least this appears discourteous. Given the seriousness of the allegation and the imminence of transmission it may well have served to reinforce Father Reynolds' view that the team were not open to hearing from him.

On May 20th a legal/editorial meeting took place to discuss the Father Reynolds' section of the programme with representatives from Legal Affairs and the production team and senior editorial figures. It can be expected that the Legal Affairs team outlined the risks of proceeding in the light of the offer of a paternity test and a number of changes were made to the section. These were viewed by Legal Affairs and by Ed Mulhall over the weekend of the 21st/22nd.

I have already discussed in the preceding section of my report my views on the reasons why the decision to proceed with transmission was taken by the editorial team.

On May 23rd Legal Affairs offered some further advice to the Head of Current Affairs and offered to provide further assistance if needed.

²² Ed Mulhall transcript, Brian Pairceir report, P651

²³ Brian Pairceir report, P651



On May 23rd some last minute dubbing and editing of the programme was carried out – it is unclear whether this editing related to the Father Reynolds section or to other elements in the programme. At approximately 10.37 Fr Reynolds solicitors, Fair and Murtagh, sent a further letter to Ms Kavanagh's email; this letter reiterated the earlier denials of the allegation. It also contained a statement saying that a number of individuals in Kenya were prepared to testify that during his time there no such allegation about him fathering a child had been made and it also stated that the allegations had been made by an individual who bore ill will and ill feeling towards their client. It further repeated the offer that Fr Reynolds would make himself available for a paternity test. Ms Kavanagh did not open this email until approximately 14.30 at which point she made the Executive Producer aware of its contents; it appears she did not forward it electronically but a number of hard copies were made and distributed to the Producer, Executive Producer and Head of Current Affairs.

There appears to be some confusion about this letter with some members of the team saying that they believed it had been forwarded to the Legal Affairs Team while others said that they were not sure if it was. However, Legal Affairs confirm that they were unaware of this letter.

Following the receipt of this letter a meeting took place in Ken O'Shea's office at which it was discussed; this appears from the recollection of those involved – Aoife Kavanagh, Mark Lappin, Brian Pairceir and Ken O'Shea – to have been an informal meeting with people coming and going throughout it and certainly no notes were taken of it. The view of the team remained as before – that the further offer of the paternity test did not make a material change and this view was reinforced by the team's existing belief that the offer was not genuine. Significantly the Director of News was not at this meeting. He became aware that a letter had been received from Fair and Murtagh through a conversation with Ken O'Shea but he did not see it on the Monday afternoon or before the transmission of the programme. At the time he was monitoring the coverage of President Obama's visit to Ireland but in retrospect he agrees that the senior editorial figures, himself included, should have ensured that the letter had gone straight to the Legal Affairs department and a formal and focussed meeting should have been held to address its contents, in particular the further offer of a paternity test as this was, in his view, significantly different from the statement from the Mill Hill fathers as it came directly from Fr Reynolds.

There are a number of lessons to be learnt for the future, some of which, as I have noted, are also expressed by Professor Horgan and the internal reports.

It is highly desirable that Legal Affairs have earlier input into programmes which are likely to be high risk and/or contentious – this would form part of the high risk programme management strategy suggested in the preceding section. Waiting until a programme is at script stage loses production staff the opportunity to have valuable legal advice at a formative stage of production.



All communication from solicitors in connection with programme content should be immediately forwarded to Legal Affairs and their advice sought.

One fundamental issue in the case of Mission to Prey was that Aoife Kavanagh was the sole conduit for communication with Fair and Murtagh. This appears to have arisen as she was the individual who, because of the May 7th doorstep in the church, Fr Reynolds identified as the Prime Time Investigates contact and it was her to whom Fair and Murtagh directed their initial letter. Her reply to their letter of May 11th was focussed on programme related matters and neither she nor the legal department, who did have input to the reply dated May 18th, appear to have responded to the threat of legal action. This, not unnaturally, meant that Fair and Murtagh directed their two subsequent letters of the 18th and 23rd to Ms Kavanagh alone. They should have been very clearly told in the reply of the 18th that they would be advised to copy any correspondence to the Legal Affairs department which would have made it much less likely that a letter which they sent on the day of transmission could have been unopened for over four hours and then not received consideration from the Legal Affairs Department.



SECTION 7

Scheduling and related matters

This will examine the decision to transmit the programme. Issues to be examined include the role of scheduling, scheduling pressures (if any) ,staff resources and commercial considerations (where relevant). The availability of back up programmes, the standard practice regarding the scheduling of Prime Time Investigates, the programme budget and the budget vis-a vis other Prime Time Investigates programmes and other programmes will also be examined.

I received written evidence from the Head of Scheduling at RTÉ Television and the Head of Commercial Operations, RTÉ Television. I also questioned the three senior editorial figures – the Director of News, The Head of Current Affairs and the Executive Producer, Prime Time Investigates.

The budget for this edition was €137, 000 which is at the upper end of the Prime Time Investigates average cost; however, for an edition which involved extensive foreign filming and several reconstructions this is not an excessive sum.

The Head of Commercial Operations, RTÉ Television has confirmed that had the programme been pulled RTÉ would have suffered no loss of revenue. The Head of Scheduling has explained that in the event of an edition of Prime Time Investigates being pulled or shortened he would have had sufficient standby material to either fill the slot or make up and shortfall.

I am satisfied that the decision to transmit Mission to Prey in its entirety was in no way influenced by any scheduling or commercial considerations.

In conclusion, I would also like to put on record that all the RTÉ personnel whom I heard from in the course of compiling this report expressed their deep regret that this had happened and their remorse that their actions had caused such damage to an innocent man.

Anna Carragher

February 29th, 2012



Addendum

The Investigating Officer has requested that the following italicised sentence be inserted into paragraph 4 on page 7 of her Report.

It was also highly undesirable that the reporter was the sole point of contact between Father Reynolds' solicitors and RTÉ. This appears to have arisen as she was the individual who Fr Reynolds identified as the Prime Time Investigates contact and it was her to whom his solicitors directed their correspondence. She was focussing on programme related matters rather than legal issues.

Father Reynolds' solicitors should have been very clearly told by both the Legal Affairs Department and the programme team, that they should copy all correspondence to the Legal Affairs Department.

In addition a piece of correspondence was not forwarded to the Legal Department by the production team on the day of transmission; while it is impossible to say definitively that if it had been there might have been a different outcome, it may be that this would have been the case.